

tack. For example, last month, he said: It is time to end the era of John Ashcroft. That starts with replacing the PATRIOT Act with a new law that protects our people and our liberties at the same time.

It is quite puzzling how Senator KERRY and his Democratic colleagues who voted for the PATRIOT Act can now do an about-face and raise such serious questions about its effects on civil liberties. It is even more puzzling to make such charges in light of how instrumental the PATRIOT Act has been in safeguarding Americans, and in the absence of evidence that the PATRIOT Act is being misused.

Sixteen key provisions of the act will expire on December 31 of next year. It is crucial that law enforcement not be deprived of these tools. While I cannot prevent election year politics, I can try to disabuse my colleagues of erroneous assumptions about some of these provisions.

Let's take a look at section 201 of the act. That section allows law enforcement to use existing electronic surveillance authorities to investigate certain crimes that terrorists are likely to commit.

Now, the myth about section 201 is as follows: Some contend that the Government already has the authority to investigate cases of suspected terrorism and, therefore, section 201 is completely overkill. But the fact is, before section 201 of the PATRIOT Act, law enforcement had the authority to conduct some electronic surveillance when investigating ordinary nonterrorism crimes. But law enforcement could not use wiretaps to investigate all of the crimes that terrorists will commit.

Now, as an illustration of this odd dichotomy, law enforcement could use wiretaps to investigate mail fraud but not for chemical weapons offenses or cases involving the use of a dirty bomb or cases involving killing Americans abroad or cases of terrorism financing. Let's go over that one more time. Law enforcement could use wiretaps to investigate mail fraud but not for chemical weapons offenses or offenses related to dirty bombs, killing Americans overseas, or terrorism financing. That is an absurd position for the law to be in.

So it seems to me that if law enforcement can use a wiretap to bust up a failed mail-in sweepstakes ring, it should be able to use wiretaps to stop the use of a dirty bomb.

Let's make one final point about section 201. To obtain a wiretap under this section, all the preexisting safeguards for wiretaps must be complied with, including establishing probable cause before an impartial Federal judge and getting that judge to sign off on the use of a wiretap.

Another section that has been misunderstood is section 206. This provision allows roving wiretaps in national security investigations. But it only allows them when the FISA court finds

that a suspect may thwart surveillance. In a roving wiretap, the tap attaches to a suspect rather than to a device so that the suspect cannot defeat surveillance simply by changing cell phones, for example. The myth is that section 206 is a broad expansion of power without privacy protections.

But the facts are that those assertions are incorrect. For over a quarter of a century, law enforcement has used roving wiretaps to solve ordinary crimes such as drug offenses. How can that be terribly expansive, to allow in national security matters what has been occurring in ordinary criminal matters for 25 years?

Second, as I said, a roving wiretap can only be obtained after a court finds that a suspect might thwart surveillance. A number of courts, including at least three circuit courts, have ruled that roving wiretaps are perfectly consistent—perfectly consistent—with the fourth amendment. So it is pretty clear that privacy protections are not being eviscerated.

In sum, we should renew the parts of the PATRIOT Act that will expire. We should not take away from law enforcement needed weapons in the war against terrorism.

THE 9/11 COMMISSION

Mr. MCCONNELL. Mr. President, I wish to make a couple of observations related to the proceedings of the 9/11 Commission, which have been in the news recently.

Specifically, I am troubled by the partisanship that some Commissioners have displayed, such as by cross-examining public officials as if they were common criminals.

I am not the only one who is troubled by the proceedings. Former National Security Adviser under President Clinton, Tony Lake, has said that the hearings are "a sad spectacle that has become so partisan." That is the National Security Adviser under President Clinton.

Max Holland, a former fellow at the University of Virginia who is writing a history of the Warren Commission, notes that, "in some respects," the proceedings of the Commission are "definitely a new low." He added that "this is a commission charged with establishing facts and the truth rather than posturing for political gain. But some of the hearings amounted to lecturing and posturing."

Still others, such as Professor Juliette Kayyem of the Harvard's Kennedy School of Government who served on a congressional terrorism panel to investigate the 1998 African embassy bombings, have questioned why 9/11 Commission members have granted so many interviews. She notes that "they have become too public" and that "tempts Commissioners into making assessments and conclusions prematurely," she suggests.

My understanding of the 9/11 Commission was that it was to impartially

determine the facts and make non-partisan recommendations on how to move forward. I am trying to be fair-minded and positive about this, and I hope the Commission holds to its mission. I think it has strayed somewhat off into the political arena. It has received, I think, justified criticism for so doing. They still have an opportunity to move back in the direction they know and we know they should go and produce a report that we will all feel will pass the smell test and stick to the goal we all thought the 9/11 Commission had in the first place.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from New Mexico. Does the Senator yield time to himself under the standing order?

Mr. DOMENICI. I did not hear the Chair.

The PRESIDENT pro tempore. Does the Senator yield time under the existing order for allocation of time?

Mr. DOMENICI. Yes. I understood I was going to speak next. How much time do I have?

The PRESIDENT pro tempore. There are 20 minutes remaining.

Mr. DOMENICI. I thank the Chair.

Mr. President, I followed with interest the media comments and partisan criticism of the President in light of testimony from a variety of individuals before the 9/11 Commission. I find the criticism almost laughable, in some cases. Here is what I gather is the essence of the criticism prior to the attacks on 9/11:

One, President Bush didn't care about terrorism, didn't care about it enough, but if he did, he didn't want to know about it.

Second, President Bush didn't know about terrorism, but if he knew, he didn't know enough to do anything.

Third, President Bush didn't do anything about terrorism, but if he did, it wasn't enough.

Finally, President Bush and the agencies of Government knew about the pending attacks on September 11, 2001, but didn't do anything about it.

Or President Bush and the agencies of Government didn't know in advance about terrorism plans for September 11, but they should have.

Just laying out this summary of the charges shows the contradictory, almost ludicrous nature of these attacks. How outrageously partisan this all has become.

Let me talk a minute about the way I see it.

First, let's for a minute assume that 9/11 did not occur. Remember, I am going to talk for a minute about the President, America, and the Congress as if 9/11 did not occur.

Mr. President, 9/11 did not occur, but the President got a report from the CIA, FBI, NSA, and others, telling him al-Qaida was getting anxious, they were a little bit worried about things; the group is moving around a little bit too much; they may be thinking about attacking America. But no 9/11 has

ever occurred for my hypothesis about how I see it.

The President says: In light of this report, we better get ready and we better take this issue to the American people. So the President gets ready, and he makes a speech to the American people. There has been no 9/11, so he cannot talk about that.

He gets up and says: Things are a little dangerous. Al-Qaida is moving around too much. I am a little worried about America, so I think we ought to do something about it.

No 9/11 has ever occurred.

The President says to the American people: I want to set up a department, and I want 45,000 people hired so we can check on everybody who gets on an airplane in the United States.

Mr. President, 45,000 people and everybody who gets on an airplane in America is going to be checked is the first request.

The second request: The PATRIOT Act—which has been discussed this morning—I need that, I want that, says the President.

Third, I need a homeland security agency. It will be big because this is a big problem, says he; \$26 billion will be put into one agency so they can work on homeland security.

Can we imagine the President of the United States taking that to the American people if we did not have 9/11? I can imagine it. In fact, I could ask the American people, What do you think would have happened? You know what they would say? Nothing would have happened. They would have laughed at the President. They would have said: Who does he think he is. He wants to search everybody who is getting on an airplane? He wants this new extraordinary power, some say, under the PATRIOT Act. He wants this new department.

Do you know what we would have said in the Senate: You will never get that, Mr. President. Who do you think you are, a dictator? You want to check everybody who gets on an airplane in the United States? Never heard of such a thing. That is the truth of the matter. That is what would have happened. He would have gotten nothing. I just do not believe that this Congress, especially with the attitude I am seeing now—which is totally obstructionist, a minority but a large minority is trying to stop everything—can you imagine what they would have done if the President of the United States, without 9/11, would have requested all these items? I cannot.

The point I am trying to make is, it is rather absurd to talk about which week did the President know, how much did he know, should he have known more; if he knew more, shouldn't he have done more? I have already gone through those, but I go through them again because, as a matter of fact, had he known a little more, had he known it sooner, had he had more reports from the CIA, nothing would have happened in terms of changing our laws.

I am going to carp on one of them. Can you imagine Congress giving the President of the United States the authority to check everybody who gets on an airplane in the United States because he had some reports showing that al-Qaida was dangerous, al-Qaida might be looking at some activity in the United States? Of course not. Anybody who believes we would have done that for this President or any President is just not facing reality.

As a matter of fact, it is my honest belief that if we did not have 9/11, we would have passed none—not one or two—none of the extraordinary measures that were passed because of 9/11.

It seems to me that for people to now run around and wonder and speculate about whether the President knew enough, whether he should have known more because if he did he could have gotten all these things that we are talking about, that is an absolute absurdity.

Remember, we had a Senator from the State of Georgia. Remember what he did on the Senate floor? He resisted homeland security. He resisted it on the basis that he was not sure whether they should put unions in as a mandatory notion with reference to those people who were going to be part of this new agency of our Government. He lost an election on the basis that he favored unions over the Department of Homeland Security. We then got a sufficient vote to pass it. It was that tough, even after 9/11.

I close by repeating that this Senator does not believe it is possible that we would have passed this legislation that everybody is saying the President should have worked on, he should have done more on, he should have worked on this, he should have gotten America more prepared, when as a matter of fact this Senate would probably have done nothing had we not had 9/11.

So is it not ludicrous, is it not rather outrageous that we are spending time trying to figure out if he knew, when did he know, he should have known more, when the facts are that it would not have made any difference because we would not have done anything? We would not have done anything unless and until al-Qaida had attacked the United States.

If anybody would like to argue that point, I would be delighted. Does anybody believe we would have said we are going to check every American who gets on an airplane if we had not had 9/11? Imagine what they would have called the President. They would have called him every name under the Sun and probably would have ended up asking, Who does he think he is, a dictator? He wants to take over the airlines and inspect every American? Americans would be saying to their Congressmen, Do not let him do that. It is crazy that they are going to search us before we get on an airplane.

The point is, there is no question that we acted after 9/11. The President acted after 9/11. Whether he did some-

thing before 9/11 or not seems to me to be one that we know the answer to. Even if he knew more, even if he knew sooner, we would have done nothing.

So why is so much being made about that period of time and talking about the 1 or 2 weeks and was there a breakdown in communication or not? Look, we all understand we were not on a war footing. We did not get there until we had been attacked. I do not think America would have gotten ready before the attacks. Maybe after this al-Qaida attack we might, but, frankly, I believe any President, and in particular this one, would have been attacked viciously had he been talking about searching every citizen, every person, who was planning to go on an airplane, or if he would have said, I want to amend the rules and I want to call it the PATRIOT Act and we are going to have a lot more authority to track people, to listen to their conversations, and do the kinds of things the PATRIOT Act provides.

So it seems to me we ought to get on with the report and a study that says how were we deficient—not whether this President knew, when did he know, what did he do—with reference to our laws, our rules, and our ability to do something about a terrorist attack.

I am sorry to say we did what we did only because we got attacked. But we would not have done it otherwise. Whatever the President knew or did not know or whenever he knew it, we would not have responded with the kinds of things we ultimately responded with. Some of them took a little longer than one might expect, but nonetheless the truth of the matter is we do not need a group of partisans to take over that Commission that was appointed in honesty and with earnest intentions. We do not need a commission spending all of its time trying to get to the President politically about what he did or did not do, when he did it, when he should have, when if we looked inward we would say, Well, Congress most probably would have done nothing had we not had 9/11.

I hope the Commission thinks about that when they are writing their report. I hope they think about the reality of preparing ourselves for terrorism. I believe, as I have said this morning, we would have done nothing had we not had 9/11. I do not think any President would have succeeded in getting anything done if we did not have 9/11.

It would be interesting for the Commission to look at the matter that way, to look at it from the standpoint of what would have happened, what could we have done, what is the reality of getting anything done prior to 9/11 actually happening.

I yield the floor.

The PRESIDING OFFICER. Without objection the majority's time is reserved.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I listened to the Senator's very eloquent and well-prepared speech of the problems that occurred prior to 9/11. We all understand and know how bad they were.

EARTH DAY

Mr. JEFFORDS. I rise to speak about an issue that has been with us for a long time and for which we have had responsibility and have done a pretty good job at making sure everything would turn out all right. I want to talk about clean air, the environment, and areas where we have made tremendous progress.

As we mark Earth Day tomorrow, rather than celebrating the environmental legacy, I am afraid we are fighting harder than ever to protect our progress. Since the day he came into office, President Bush has worked to gut more than 34 years of hard work by weakening many of our Nation's standing environmental laws, some of which were signed into law by his father.

Air pollution is causing 70,000 premature deaths a year in the United States. Yet this Bush administration has proposed one of the biggest rollbacks of the Clean Air Act in history. Science tells us more than 600,000 women and children are at risk from mercury contamination. Yet this Bush administration has proposed to violate a legal requirement to reduce mercury emissions from powerplants.

As we approach another summer, 40 percent of the U.S. rivers and lakes remain too polluted for fishing or swimming. In spite of this fact this Bush administration has proposed fewer bodies of water to be protected by the Clean Air Act. Toxic waste sites continue to be added to the Superfund while the Bush administration continues to cut funding for the program and refuses to reauthorize the "polluter pays" law.

The Earth continues to warm and this Bush administration refuses to act to reduce the greenhouse gas emissions. This Bush administration has a growing credibility gap, maybe even a credibility chasm, on environmental policy. The President has lost the trust of the American people when it comes to the environment.

As the ranking member of the Senate Environment and Public Works Committee, I believe we have an obligation to maintain and enforce the environmental laws already on the books and also to strengthen them. Unfortunately, our President is moving us backward instead of leading us forward. I hope we can once again celebrate Earth Day by showing more respect for our environment.

I yield the floor.

Mrs. BOXER. Mr. President, I am proud to be here with my friend and colleague Senator JEFFORDS, who is the ranking member on the Environment and Public Works Committee on which I serve. His leadership has been ex-

traordinary on a whole range of issues, as has been his dedication to the environment, to protecting people and their environment.

When we hear protection of the environment, some people think of wildlife, which is true, and fisheries, which is true, and forests. It is all true. It is all about preserving these things—first of all, because they are God's gift to us and that is our moral obligation, but it also protects the people of our country because we know when species get endangered, we know when oceans get polluted, we know when we lose the wetlands, we know when the air is smoggy, it hurts the people we represent—particularly the children, who are the most vulnerable, the people who are ill, and the elderly.

If we take our position seriously, what could be more fundamental than protecting our people? Protecting the environment is protecting our people. It is what we must do. It is the moral thing to do.

I say to my friend Senator JEFFORDS—and I see my colleague Senator REID of Nevada has come to the floor. I serve with both of them on that committee. It is a joy to be on that committee—we have a lot of work to do. We know Earth Day is a time for us to reflect on what our work should be. Gaylord Nelson and Denis Hayes founded Earth Day in 1970 to ensure environmental protection would be a major national issue. It has been. Tomorrow is the 34th anniversary of Earth Day.

One thing I find when I go home is people are so—I don't like to use this word, but it is true—they are disgusted with partisanship. They have had it with partisanship. They want us to work together. On what better issue could we work together than a clean and healthy environment? Whether you are a Democrat or Republican or whatever, you still have to breathe the air; you still have to drink the water; you still want to take your family to the beach or to the park. It is our job to protect the environment so you can do that.

We know this issue has been very much a bipartisan issue. When I think back, what comes to mind is President Nixon founded the EPA. We look at each President and we see progress has been made across party lines. Yet with this Presidency—and I think Senator JEFFORDS has touched on it and it has to be very painful for him to touch on it—we see a reversal of years of bipartisan progress. I want to get into that.

In today's paper there is a big story. The U.S. Commission on Ocean Policy has given its preliminary report on the state of our oceans. Happily, they gave us a blueprint for a new, comprehensive, national ocean policy. This happens to be a Presidentially-appointed commission composed of academics, naval officers, and members of the business community. This group, appointed by our President, is telling us our oceans are in crisis and we need to take action now if we are to reverse de-

clines. The Commission stated we need to start taking an ecosystem-based management approach to protect our oceans and marine species. That means we need to look at the whole environment of the ocean and not take small steps, but make sure we have policies that protect the entire ocean.

We need to improve the governance of our oceans by strengthening and coordinating decisionmaking. The Commission highlighted the need for greater Federal investment in ocean research and exploration for better scientific information.

I am someone who has worked for a long time to stop oil drilling off the coast of California because that is a precious environment we must protect, and it is an economic asset as it is. I am someone who wrote the tuna labeling bill which turned out, happily, to save tens of thousands of dolphins every year. I so welcome this report. I call on the President to embrace the findings of this report. I call on the President to work with us and let us know how he wants to implement this report.

I hope I am wrong in what I am about to say, but given the history of this administration I am very worried we will not hear much from the President about steps he is going to take with us to invest in our environment, to make sure America is the model for the world when it comes to protecting its natural resources.

Half a billion people participate in Earth Day campaigns every year, half a billion people across this world. I urge the President to take a look at this report, to step out on Earth Day and say I embrace this and we are going to work together to protect the oceans. While he is at it, I think Earth Day would be a perfect day for him to say he has seen the light and he is going to reverse all of the environmental rollbacks he is perpetrating on the American people.

I have a scroll I cannot bring into the Senate Chamber because there are rules against bringing the scroll in. When I unroll that scroll—and it goes out 30 feet—we see the more than 350 laws and regulations that have been rolled back unilaterally by this administration. No one has been immune from these attacks: not children with asthma, not communities faced with toxic waste sites, not parents who worry about what comes out of their faucets.

I couldn't possibly go through every rollback. I don't have enough time in the day. But what I want to give a sense of is what these rollbacks look like when they are written down, so I do have a whole series of charts. It is very hard to read, I know. Each one has a date. It starts January 20, 2001.

When the White House Chief of Staff, Andrew Card, issued the memo to all Federal agencies ordering the 60-day suspension of all rules finalized by the Clinton administration, including numerous important regulations to protect the environment and public